

144979 m.c. Gary
R. Gary
C. Gary
R. Gary
RECEIVED
APR 15 1991
IEPA/DLPC
FILE

4/11/91

1991

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

J. L. Gary, General Manager
Chemical Waste Management
Trade Waste Incineration Division
7 Mobile Avenue
Sauget, Illinois 62201-1069

1631210009
Re: Off-Site Policy Determination
Trade Waste Incineration (CWM)
ILD 098 642 424

RCRA PERMIT FILE

Dear Mr. Gary:

On September 28, 1990, you received a letter from the United States Environmental Protection Agency (U.S. EPA) notifying you that Trade Waste Incineration (CWM) may have conditions that render it unacceptable for receipt of off-site CERCLA (Superfund) waste. This finding was based on an inspection of your facility conducted from August 20 to 24, 1990. The September 28, 1990, letter advised you that the August 1990 inspection revealed that the following RCRA Class I violations had not been resolved:

- 1) 40 CFR 268.50(a)(2)(i) Incoming dates were not recorded on containers storing restricted waste.
- 2) 40 CFR 264.13 The operator must obtain a detailed chemical and physical analysis of a representative sample of waste before treating, storing or disposing of any hazardous waste.
- 3) 40 CFR 264.31 The facility has to be maintained and operated in a manner to minimize unplanned releases of any hazardous waste to air, soil, or surface water.

006679

4) 40 CFR 264.345(a)

An incinerator must be operated in accordance with operating requirements specified in the permit. Incinerator No. 4 has been operated 300 degrees Fahrenheit below the permit required kiln temperature since January 1990.

On October 15, 1990, U.S. EPA and Trade Waste Incineration (TWI) participated in an informal conference pursuant to the September 28, 1990, letter. During this meeting, TWI agreed to demonstrate compliance with the above-mentioned violations. TWI agreed to submit data in a manner that would allow U.S. EPA to make a final determination regarding TWI's acceptability for receipt of off-site waste within sixty days of TWI's receipt of the September 28, 1990, letter.

U.S. EPA received a trend analysis for kiln temperatures for October 14, 1990, through November 17, 1990, on December 3, 1990, beyond the time period that would allow U.S. EPA to make a determination regarding TWI's acceptability to receive off-site waste within the sixty day time period set forth in our September 28, 1990, letter, and discussed during our informal conference. The trend analysis submitted by TWI was insufficient as it did not provide enough information to allow U.S. EPA to determine whether TWI had actually complied with its responsibilities to meet kiln temperatures during hazardous waste incineration as specified in the kiln temperature permit requirements.

On December 7, 1990, U.S. EPA sent a letter to TWI indicating that we had sufficient information to allow us to make determinations with respect to violations 1 (40 CFR 268.50(a)(2)(i)), 2 (40 CFR 264.13), and 3 (40 CFR 264.31); however, we had not received sufficient information to allow us to make a determination about violation 4 (40 CFR 264.345(a)). During the informal conference with TWI on October 15, 1990, TWI agreed to submit documentation of incinerator kiln temperatures in a manner that would allow U.S. EPA to evaluate the kiln temperature data in order to make a decision regarding TWI's unacceptability determination by November 28, 1990.

Despite TWI's failure to provide information to U.S. EPA that was adequate and timely, U.S. EPA decided to extend the period of time for TWI to submit documentation regarding the temperature records. U.S. EPA requested that TWI provide the necessary information within fourteen days following receipt of the December 7, 1990, letter.

On December 19, 1990, TWI provided kiln temperature information regarding Incinerator No. 4 to Dan Bakk of U.S. EPA, RCRA

080900

Enforcement Branch. Based upon review by technical personnel within our Office of RCRA, U.S. EPA determined that Incinerator No. 4 had not been operated in accordance with permit conditions.

By letter dated December 28, 1990, U.S. EPA confirmed the oral notice provided to TWI on December 24, 1990, and advised TWI that U.S. EPA had determined that upon receipt of the December 28, 1990, letter, TWI's Incinerator No. 4 was unacceptable to receive CERCLA (Superfund) waste pursuant to U.S. EPA's off-site policy due to failure to comply with permit conditions for Incinerator No. 4.

In the same letter, U.S. EPA advised TWI that violations 2 (40 CFR 264.13) and 3 (40 CFR 264.31) had been based on the January 1990 air release that occurred at TWI, and therefore, the results of those violations could not be physically undone. The off-site policy has been interpreted to mean that the units are in full physical compliance and, therefore, acceptable under the off-site policy if all legal proceedings, punitive actions and other obligations related to the violations that cannot be undone are resolved, and the facility has implemented a system approved by the responsible Agency that will assure that the violations do not recur. U.S. EPA therefore determined that with respect to the violations associated with the January 1990 air release at TWI, a legally enforceable document was, and is, necessary to resolve the violations. Although the possibility of requiring that the air release violations be resolved through resolution of legal proceedings was conveyed to TWI's representatives at the informal conference on October 15, 1990, U.S. EPA decided to extend the period of time before the determination of facility-wide unacceptability becomes effective regarding violations 2 (40 CFR 264.13) and 3 (40 CFR 264.31) for thirty (30) additional days from receipt of the December 28, 1990, letter to allow TWI to demonstrate that it had resolved all legal proceedings. TWI was further advised that in the event that TWI was not able to resolve the matter, as well as the temperature violations at Incinerator No. 4 with the State of Illinois, U.S. EPA would be available to negotiate a Consent Decree or Consent Agreement/Final Order (CAFO) with TWI.

The letter further advised TWI that it could submit a request to the Regional Administrator to review the unacceptability determination at Incinerator No. 4.

On January 7, 1991, TWI requested a review of the final determination of unacceptability at Incinerator No. 4.

By letter dated January 28, 1991, U.S. EPA advised TWI that an August 27, 1990, inspection conducted by the Illinois Environmental Protection Agency (IEPA) revealed the following RCRA Class I violation:

006081

40 CFR 264.345(a)

The incinerator must be operated in accordance with operating requirements specified in the permit. The permit for incinerator No. 4 requires that fugitive emissions from the combustion zone be controlled by operating the kiln and SCC at less than atmospheric pressure. During an inspection performed by IEPA on August 27, 1990, several periods of visible fugitive emissions were observed from the seal around the discharge end of incinerator No. 4. These emissions were the result of pressure buildup to greater than atmospheric pressure inside the kiln.

Other relevant violations of the State of Illinois Air Pollution Regulations were also documented, and were cited in U.S. EPA's January 28, 1991, letter as follows:

35 Ill. Adm. Code 216.141

The emission of carbon monoxide from all four incinerators in excess of 500 ppm has been recorded and reported in the Consent Order Condition 3b Weekly Reports.

DAPC Permit
Condition No. 4(d)(2)

On September 7, 1990, a solid waste charge in excess of 160 pounds was made at incinerator No. 2. This is a violation of the prior operating permit and therefore of the Consent Order entered on February 16, 1990, in St. Clair County No. 90-MR-34.

These violations also rendered TWI unacceptable for receipt of off-site CERCLA (Superfund) waste. Among other things, U.S. EPA stated that a final determination of acceptability or unacceptability would be made within sixty days (i.e., March 29, 1991).

By letter dated February 4, 1991, U.S. EPA notified TWI that with respect to the thirty day extension to resolve the violations related to the air release at TWI, specifically violations of 40 CFR Parts 264.13 and 264.31, U.S. EPA had been advised by the State of Illinois that the State would know shortly whether TWI and the State of Illinois would be finalizing a Consent Decree. Based upon that information, U.S. EPA decided to grant TWI an additional extension before making a final determination of acceptability or unacceptability. The extension was for a period

006682

of for
1991

of forty-five days, until March 15, 1991, to resolve the January 1990 air release violations through entry of a Consent Decree or Consent Agreement with the State of Illinois or with U.S. EPA.

By a letter dated February 21, 1991, TWI advised U.S. EPA that with respect to the January 28, 1991, and February 4, 1991, letters, TWI had decided not to request an informal conference, but reserved its right to submit written comments.

After providing a thirty day extension, and an additional forty-five day extension until March 15, 1991, to allow TWI and the State of Illinois to resolve the January 1990 air release violations (40 CFR 264.13 and 40 CFR 264.31) through entry of a Consent Decree or Consent Agreement with the State of Illinois or with U.S. EPA, U.S. EPA, Region V, has determined that the January 1990 air release occurred at the receiving units for TWI's Incinerators Nos. 1, 2, and 3; therefore, TWI's Incinerators Nos. 1, 2, and 3, are unacceptable to receive CERCLA (Superfund) waste pursuant to U.S. EPA's off-site policy due to failure to resolve the January 1990 air release violations. This final determination of unacceptability is effective upon receipt of this letter.

Please be advised that the U.S. EPA has also identified additional violations that must be addressed before TWI's unacceptability determination may be reevaluated.

On February 5, 1991, an ash conveyor explosion occurred at TWI, and an inspection was conducted by IEPA on February 13, 1991. The February 5, 1991, explosion occurred within or immediately above the ash conveyor of Incinerator No. 1 which shot a cone of approximately 1600 degrees Fahrenheit gas, ash particles, and other material into the air. At the time of the explosion, the material being burned was mostly sodium cyanide and scrap metal. The circumstances constitute relevant violations of RCRA regulations and Clean Air Act standards and a relevant release of hazardous substances that render Incinerator No. 1 incapable of safely handling CERCLA waste. Under the off-site policy, this violation renders Incinerator No. 1 immediately unacceptable for receipt of off-site (Superfund) waste upon receipt of this notice.

An inspection conducted on February 20, 21, and 28, 1991, revealed the following newly identified RCRA Class I violations:

40 CFR 264.171

If a container holding hazardous waste is not in good condition or if it begins to leak, the owner or operator must transfer the hazardous waste from this container to a container that is in good

006083

condition or manage the waste in some other way that complies with the requirements of this part. During this inspection, a container was observed to be leaking and no action was taken to comply with this part.

40 CFR 268.7(a)(4)(ii)

If a generator is managing a prohibited waste in tanks or containers regulated under 40 CFR 262.34, and is treating such waste in such tanks or containers to meet applicable treatment standards under Subpart D of this part, the generator must develop and follow a written waste analysis plan which describes the procedures the generator will carry out to comply with the treatment standards. The plan must be kept on-site in the generator's records, and the following requirements must be met:

...plan must be filed with the EPA Regional Administrator (or his designated representative) or State authorized to implement Part 268 requirements a minimum of 30 days prior to the treatment activity, with delivery verified.

The waste analysis plan has not been filed in accordance with this part.

40 CFR 268.150(c)

The owner/operator of a hazardous waste treatment, storage or disposal facility may store land disposal restricted wastes for longer than one year if the accumulation is necessary to facilitate proper recovery, treatment, or disposal. Approximately fifty drums of material were observed to be in violation of this part.

Acceptability at TWI may be restored when all conditions for determining full physical compliance are met, including the resolution of all legal proceedings, punitive actions, and other obligations related to the violations that cannot be undone. In

the event that TWI is not able to resolve this matter with the State of Illinois, U.S. EPA will be available to negotiate a Consent Decree or CAFO with TWI.

You may submit a request to the Regional Administrator, Valdas V. Adamkus, U.S. Environmental Protection Agency, 230 South Dearborn Street, Chicago, Illinois 60604, to review this unacceptability determination. Such a request must be made within 10 calendar days after receipt of this letter. Such a review by the Regional Administrator, if agreed to, will be conducted within 60 calendar days of this letter, if possible, but the review will not stay the effective date of this determination.

This letter is being sent by both certified mail and first class mail, in order to ensure that you receive it promptly. If you wish to discuss the enforcement issues, call Dan Bakk at (312)886-3781. Please contact Ms. Gertrud Matuschkovitz, Off-site Coordinator at (312) 353-7921, if you have any questions regarding the Off-site Policy.

Sincerely yours,

ORIGINAL SIGNED BY

DAVID A. ULLRICH
David A. Ullrich, Director
Waste Management Division

cc: William Radlinski, IEPA
Doug Clay, IEPA
Mike Grant, IEPA, Collinsville Office

William Ingersoll
Assistant Attorney General
Illinois Attorney General's Office
Environmental Division
500 South Second Street
Springfield, Illinois 62706

Christine Zeman
Special Attorney General
Illinois Attorney General's Office
Environmental Division
500 South Second Street
Springfield, Illinois 62706

William Child, Manager
Division of Land Pollution Control
Illinois Environmental Protection Agency
2200 Churchill Road
Springfield, IL 62794-9276

006085

Bharat Mathur, Manager
Division of Air Pollution Control
Illinois Environmental Protection Agency
2200 Churchill Road
Springfield, IL 62794-9276

Edward Kenney
Chemical Waste Management, Inc.
3001 Butterfield Road
Oak Brook, IL 60521

980900